

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RHONSHAWN JACKSON, )  
Plaintiff, )  
 )  
v. ) C.A. No. 1:16-cv-133  
 ) District Judge Kim R. Gibson  
PA DEPARTMENT OF CORRECTIONS, ) Magistrate Judge Susan Paradise Baxter  
et al, )  
Defendants. )

**MEMORANDUM ORDER**

This prisoner civil rights action was received by the Clerk of Court on June 8, 2016, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates. The magistrate judge's report and recommendation, issued on July 10, 2017, recommended that Defendants' motion to dismiss (Dkt. 27) be granted in part and denied in part, and that the motion to dismiss (Dkt. 19) be dismissed as moot. Service was made on Plaintiff by mail at SCI Frackville, where he was incarcerated, and on Defendants. Objections to the report and recommendation were filed by Plaintiff on August 7, 2017. After de novo review of the complaint and documents in the case, and objections thereto, the following order is entered:

AND NOW, this 26<sup>th</sup> Day of September, 2017;

IT IS HEREBY ORDERED that Defendants' motion to dismiss [ECF No. 27] is granted

in part and denied in part as follows:

(1) It is ORDERED that the motion to dismiss Plaintiff's Conspiracy and First Amendment claims against Defendants Carter, Hacherl, Haggerty, Dickey, McNaughton, Costanzo, Gilara, Oberlander and O'Brien are denied.

(2) It is ORDERED that the motion to dismiss Plaintiff's Eighth Amendment claims against Defendants Haggerty, Gilara, and Carter are denied, but that the motion to dismiss Plaintiff's Eighth Amendment claims against the remaining Defendants (Hacherl, Dickey, McNaughton, Costanzo, Oberlander, and O'Brien) is granted.

(3) It ORDERED that Defendants' motion to dismiss Plaintiff's Conspiracy and First, Eighth and Fourteenth Amendment claims against Defendants Martucci, Hicks, Robinson and Clark is granted.

(4) It is ORDERED that Defendants' motion to dismiss Plaintiff's claims for harassment, and interference with legal mail is denied.

(5) It is ORDERED that Defendants' motion to dismiss Plaintiff's loss or destruction of property is granted.

(6) It is ORDERED that the motion to dismiss filed by Defendants on October 26, 2016 (ECF No. 19) is denied as moot.

The report and recommendation of Magistrate Judge Baxter, issued July 10, 2017, is adopted as the opinion of the court.

September 26, 2017

  
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KIM R. GIBSON  
United States District Judge

cc: Susan Paradise Baxter  
U.S. Magistrate Judge

all parties of record \_\_\_\_\_